

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Rigie	Team: Squad #3	CCRB Case #: 201604838	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/29/2016 1:03 PM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 11/29/2017	EO SOL 11/29/2017	
Date/Time CV Reported Mon, 06/06/2016 2:13 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 06/06/2016 2:13 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Dupree James	30997	954970	073 PCT
2. POM Jose Vega	05334	954398	073 PCT
3. SGT Louis Martinez	03242	949266	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Dominic Mallamaci	00644	940410	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Louis Martinez	Abuse: Sergeant Louis Martinez removed § 87(2)(b) to the hospital.	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

### Case Summary

On June 6, 2016, § 87(2)(b) filed this complaint with the CCRB in person.

On May 29, 2016, at approximately 1:03 p.m., § 87(2)(b) called 911 to report that she had been sexually assaulted while she was sleeping at § 87(2)(b) in Brooklyn. PO Dupree James and PO Jose Vega of the 73<sup>rd</sup> Precinct responded to the scene. After speaking to § 87(2)(b) PO James and PO Vega called Sgt. Louis Martinez, also of the 73<sup>rd</sup> Precinct, to the scene. Sgt. Martinez arrived on the scene with his operator, PO Dominic Mallamaci. Sgt. Martinez spoke to PO James, PO Vega, shelter staff (including § 87(2)(b) and § 87(2)(b) who refused medical treatment. Sgt. Martinez then instructed PO James and PO Vega to send § 87(2)(b) to the hospital for a psychiatric evaluation despite her refusals (**Allegation A**). PO James and PO Vega called EMS to the scene, who then transported § 87(2)(b) to § 87(2)(b) in Brooklyn.

There was no video footage of this incident.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation for this case § 87(2)(b)
- On July 18, 2016, a FOIL request with the Office of the Comptroller confirmed that § 87(2)(b) filed a Notice of Claim for this incident against DHS, but not NYPD (01 Board Review).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- § 87(2)(b)  
§ 87(2)(b)  
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§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- Sgt. Martinez has been a member of the NYPD for six years and has two previous CCRB cases involving four allegations and no substantiated allegations. § 87(2)(g)
- PO James has been a member of the NYPD for three years and has one previous CCRB case involving one allegation and no substantiated allegations. § 87(2)(g)
- PO Vega has been a member of the NYPD for three years and this is his first CCRB case.

### Potential Issues

- Documentation and witness statements could not be obtained from § 87(2)(b)'s shelter due to the inability to contact the administrative office. Four calls placed to the administrative office over multiple days resulted in the call going to voicemail. A recording then played which said that the voicemail box was full. These witness statements and the incident report would not have affected the recommended disposition

### Subject Officer Identification

- § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### Findings and Recommendations

**Allegation A –Abuse of Authority: Sergeant Louis Martinez removed § 87(2)(b) to § 87(2)(b) in Brooklyn.**

§ 87(2)(b)  
§ 87(2)(b) PO James and PO Vega arrived on the scene and § 87(2)(b) told PO James what happened. § 87(2)(b) then spoke to § 87(2)(b) with the officers, while another staff member stood nearby. PO James and § 87(2)(b) asked § 87(2)(b) repeatedly if she needed EMS and § 87(2)(b) replied each time that she did not. PO James called Sgt. Martinez, who arrived on scene and also asked § 87(2)(b) if she needed EMS. § 87(2)(b) told Sgt. Martinez what happened, but that she did not need EMS. The officers talked amongst themselves and Sgt. Martinez left. PO James said that he did not know the code for the crime she was reporting and was going to call for it. § 87(2)(b) waited 30-40 minutes and then asked PO James what they were waiting for. PO James said that he was waiting for information. PO James held DHS Care records in his hand that were given to him by § 87(2)(b). § 87(2)(b) said that these records showed that she did not have a psychiatric background. Less than 10 minutes after speaking to PO James, two EMTs arrived on the scene and told § 87(2)(b) that she had to see a doctor as it was mandatory under New York City law, which PO James confirmed. The EMTs never explained why § 87(2)(b) needed to see a doctor, but one of the EMTs go into § 87(2)(b)'s face in a threatening and aggressive manner while telling her that it was mandatory that she go. The EMTs then escorted § 87(2)(b) to an ambulance. § 87(2)(b) continued to refuse treatment, but was calm, not acting out or screaming, and did not engage in any threatening behavior. § 87(2)(b) was not handcuffed or restrained in the ambulance and no officer rode inside the ambulance; PO James and PO Vega followed the ambulance to the hospital in their vehicle. § 87(2)(b)'s written statement and narrative for OCD complaint# § 87(2)(b) was generally consistent with her CCRB interview (03 and 12 Board Review).

A review of detailed EVENT# § 87(2)(b) showed § 87(2)(b)  
§ 87(2)(b) At 1:41 p.m. sector 73A1 advised that they were responding to the location. At 1:51 p.m., Central advised that § 87(2)(b) would file her complaint

at a later date. At 1:54 p.m. sector 73A1 reported that they found § 87(2)(b) and at 1:55 p.m., they requested a sergeant to the location. At 2:33 p.m., EMS was requested by the officers for an EDP and not a sexual assault. At 3:20 p.m., EMS arrived on scene and transported § 87(2)(b) to § 87(2)(b) at 3:41 p.m. (04 Board Review).

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b) said that she would wait outside her shelter for the officers. § 87(2)(b)'s tone of voice alternates between calm and agitated. § 87(2)(b) said that she was not requesting an ambulance. In § 87(2)(b)'s second 911 call she briefly tells the operator that she would walk to the stationhouse to file her report because she had waited 30-40 minutes for officers and did not want to wait any longer (13-15 Board Review).

A review of the FDNY Pre-Hospital Care Report showed that § 87(2)(b) § 87(2)(b)  
§ 87(2)(b) The report also says that DHS provided documentation that § 87(2)(b) made multiple allegations about people assaulting her at different shelters, but no one was shown assaulting her on camera and so the staff and officers wanted her psychiatrically evaluated. § 87(2)(b)'s medical records provided by § 87(2)(b) showed that § 87(2)(b) was transported there by officers, psychiatrically evaluated by § 87(2)(b), and deemed stable for release at § 87(2)(b) (see medical records).

Sgt. Martinez said that when he interviewed § 87(2)(b) § 87(2)(b)  
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§ 87(2)(b)  
§ 87(2)(b) Sgt. Martinez felt that the victim of a crime would be more focused on the crime itself and not trying to find a way out of her shelter. Sgt. Martinez asked shelter staff who had entered § 87(2)(b)'s room, who was working, whether there were cameras, and which staff members were on duty at the time of the alleged assault. § 87(2)(b), § 87(2)(a)  
§ 87(2)(b) § 87(2)(b)'s demeanor during the incident was calm and she was not scared, or agitated. She was speaking in a normal tone and not raising her voice and otherwise acted completely normal. Nothing about § 87(2)(b)'s statements or behavior led Sgt. Martinez to believe that she might be a danger to herself or others.

Sgt. Martinez then asked PO James and PO Vega what § 87(2)(b)'s mental history was and whether she had any psychiatric problems. PO James confirmed that § 87(2)(b) had psychiatric problems in the past and at that time Sgt. Martinez decided that § 87(2)(b) should be sent to the hospital for a psychiatric evaluation. Sgt. Martinez was not sure whether the officers ever

received a printout of § 87(2)(b)'s psychiatric history, but PO James was told by the shelter staff that § 87(2)(b) had a psychiatric condition. Sgt. Martinez then told § 87(2)(b) that she was going to go to the hospital for a psychiatric evaluation. § 87(2)(b) responded, "Alright fine," and that she would go to the hospital. When asked if § 87(2)(b) went to the hospital voluntarily, Sgt. Martinez said that he told her she was going to go to the hospital and was later informed by officers that there were no problems because § 87(2)(b) got into the ambulance voluntarily and did not need to be handcuffed. To Sgt. Martinez's knowledge, § 87(2)(b) never made any statements that she did not want medical treatment or specifically complained that she was being forced to go to the hospital against her will. § 87(2)(b), § 87(2)(a)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Vega generally corroborated Sgt. Martinez's statement, including that § 87(2)(b) did not do anything that led him to believe she was a danger to herself or others. He also added that he received printouts of § 87(2)(b)'s shelter notes. § 87(2)(b), § 87(2)(a)

§ 87(2)(b) PO Vega also testified that § 87(2)(b) explicitly told the officers multiple times that she refused medical attention, and he noted that she refused medical attention (RMA) in his memo book. PO Vega also noted that once EMS arrived on the scene, § 87(2)(b) stated that she did not want to go to the hospital. § 87(2)(b)

§ 87(2)(b) The officers advised § 87(2)(b) of why she was going to the hospital, and although she replied, "Ok," she kept saying § 87(2)(b). While PO Vega stated that Sgt. Martinez did not specifically tell § 87(2)(b) that she had to go to the hospital, PO Vega said that the EMTs told § 87(2)(b) that because the officers called them she had to go to the hospital to be evaluated (06 and 07 Board Review).

PO James generally corroborated Sgt. Martinez's statement but added, after prompting, that in addition to her inconsistent statement he felt § 87(2)(b) was a danger to herself and others because she was being loud and caused a scene in the specific area they were in. PO James did not remember any specific statements that § 87(2)(b) made and only said that she was being loud. PO James § 87(2)(b), § 87(2)(a) also learned that she always refused to go to the hospital despite the staff's attempts to get her to go for a psychiatric evaluation. Additionally, prior to Sgt. Martinez's arrival, PO James and PO Vega tried to convince § 87(2)(b) to go to the hospital § 87(2)(b) but she refused and said she did not want to. Although PO James did not recall § 87(2)(b) making any statements that she did not want to go to the hospital, PO James stated that § 87(2)(b) was free to refuse § 87(2)(b) any treatment once she got to the hospital (08 Board Review).

PO Mallamaci testified that he did not participate in any conversations during the incident, did not recall whether Sgt. Martinez gave him any information after the incident, and did not recognize § 87(2)(b) from her CCRB photo (09 Board Review).

P.G. 216-05 says that officers must take EDPs into protective custody and defines an EDP as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a

§ 87(2)(b) stated that she repeatedly refused to go to the hospital and that she only entered the ambulance after being repeatedly told by officers and EMTs that it was mandatory that she go. § 87(2)(b)'s assertion that she repeatedly refused to go to the hospital for any sort of medical treatment was corroborated by PO Vega, who stated that § 87(2)(b) asked why the EMTs had arrived when she did not want medical treatment. § 87(2)(g)

§ 87(2)(g) The Event documents show that at 1:55 p.m. PO Vega and PO James called for Sgt. Martinez and at 2:33 p.m. the officers called for EMTs for an EDP. The Event documents further show that § 87(2)(b) was transported to the hospital by EMTs at 3:41 p.m. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted]  
[Redacted]

§ 87(4-b) § 87(2)(g) [Redacted]  
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Squad: 3

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date